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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Human rights and unilateral coercive measures

Report of the Secretary-General

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GE.99-16354 (E)

Introduction

1. This report is submitted pursuant to Commission on Human Rights resolution 1999/21 of 23 April 1999, in which the Commission requested the Secretary-General to bring the resolution to the attention of all Member States and seek their views and information on the implications and negative effects of unilateral coercive measures on their populations, and to submit a report thereon to the Commission on Human Rights at its fifty-sixth session.

2. In accordance with paragraph 9 (b) of the resolution, the Secretary-General, in a note verbale dated 27 August 1999, invited Member States to transmit information relevant to the subject-matter. As at 1 December 1999, replies had been received from the following Governments: Congo, Iraq, Russian Federation and Yugoslavia. Those replies have been reproduced in the present document. Any additional replies will be submitted in an addendum to this report.

REPLIES RECEIVED FROM GOVERNMENTS

Congo

[20 September 1999]
[Original: French]

3. Under (resolution 1999/21), the Commission urges all States to refrain from adopting or implementing unilateral measures not in accordance with international law and the Charter of the United Nations, in particular those of a coercive nature with extraterritorial effects, which create obstacles to trade relations among States, thus impeding the full realization of the rights set forth in the Universal Declaration of Human Rights and other international human rights instruments, in particular the right of individuals and peoples to development.

4. This same resolution rejects the application of such measures as tools for political or economic pressure against any country, particularly against developing countries, because of their negative effects on the realization of all human rights.

5. In accordance with this resolution, the Congolese Government affirms that it has never resorted to, still less encouraged, such measures. It goes without saying that the measures adopted and applied by the Congolese Government are compatible both with international law and with the Charter of the United Nations. Consequently, the Congolese Government unequivocally condemns States which adopt and encourage such measures in relation to their own populations and third States.

Iraq

[15 September 1999]
[Original: Arabic]

6. The Government of Iraq wishes to point out that, in its final document adopted by consensus, the World Conference on Human Rights held at Vienna in 1993 called upon States to

refrain from any unilateral measure not in accordance with international law and the Charter of the United Nations that created obstacles to trade relations among States and impeded the full realization of the human rights set forth in the Universal Declaration of Human Rights and international human rights instruments, in particular the right of all persons to a standard of living adequate for their health and well-being, including food, medical care and housing.

7. The Government of Iraq affirms its full commitment to the purposes set forth in Article 1, paragraphs 2 and 3 of the Charter of the United Nations, namely "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples; to take other appropriate measures to strengthen universal peace; and to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all ...".

8. The imposition of unilateral coercive measures by some States have an adverse impact on the socio-humanitarian activities of developing countries and some of their effects transcend national frontiers and create additional obstacles that prevent peoples from enjoying all their human rights. Such measures also violate an imperative principle of international law, namely the inadmissibility of enforcing national legislation, in the form of economic sanctions, outside the territory of the State.

9. Iraq is one of a number of States that have been subjected to unilateral coercive measures insofar as the United States of America, Great Britain and France took unilateral decisions to impose an embargo on it before the adoption of Security Council resolution 661 (1990) concerning the imposition of economic sanctions on Iraq. Those decisions reflected the political and economic interests of those States, as illustrated by the fact that, in February 1990, the United States Administration imposed restrictions on the fulfilment of contracts for agricultural and industrial shipments which had been concluded with Iraq six months earlier.

10. In April 1990, the United States of America refused to fulfil its undertakings to supply Iraq with agricultural and commercial goods and, in July 1990, the United States Senate approved a ban on the supply of goods valued at $1.2 billion to Iraq.

11. On 2 August 1990, before the adoption of Security Council resolution 661 (1990), the President of the United States issued two executive orders imposing an embargo on trade with Iraq and freezing its financial assets.

12. On 2 and 4 August 1990, the British Treasury issued legal directives freezing Iraq's financial assets. France is also one of the States that imposed unilateral economic sanctions on Iraq through the promulgation, on 2 August 1990, of a decree ordering the suspension of financial relations with Iraq.

13. Those measures unquestionably prove that those States not only imposed unilateral sanctions on Iraq in advance of those decided upon by the Security Council of the United Nations but also laid down regulations for the sanctions imposed by the Security Council, as a result of which the application of the sanctions became an ongoing institutionalized process that clearly showed that those States intended to perpetuate the embargo.

14. While reaffirming its total rejection and condemnation of unilateral coercive measures, which violate the human rights of the peoples of the targeted States and aggravate the problems that those States face in regard to the fulfilment of their obligations under international human rights instruments, the Government of the Republic of Iraq calls upon the international community to make concerted collective endeavours, in collaboration with international organizations, to put an end to those practices with a view to ensuring that the resolutions adopted by the Commission on Human Rights in this connection are put into full effect.

Russian Federation

[19 October 1999]
[Original: Russian]

15. Over more than 50 years, the United Nations has accumulated an extensive and diverse arsenal of mechanisms and instruments for the peaceful settlement of disputes and conflicts, and has evolved ways of influencing States where gross violations of human rights and fundamental freedoms occur and whose policies may threaten the maintenance of international peace and security. Experience shows that States and the United Nations alike have relied mainly on non-violent measures to settle these problems, and have resorted to mandatory sanctions and other coercive measures only in exceptional cases.

16. The Russian Federation fully supports the principle contained in the Charter of Economic Rights and Duties of States adopted by the General Assembly whereby no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights.

17. The use of unilateral coercive measures not only violates human rights but also magnifies humanitarian problems. Although the supposed aim of unilateral coercive measures is to put pressure on a given political regime, it is the population which bears the brunt. Thus the imposition of sanctions on certain goods leads to food shortages and limited access to foreign markets causes economic recession which in turn leads to unemployment, inflation, mass impoverishment, starvation and a deterioration in the health of the population.

18. The Russian Federation has repeatedly stated in a number of international forums that it rejects the growing trend towards unilateral extraterritorial application of national laws and measures affecting other States' trade and foreign relations, since these laws and measures breach international law, violate the principles of the sovereign equality of States and respect for national sovereignty, and undermine peaceful coexistence.

19. The Russian Federation bases its policy on strict observance of the purposes and principles of the Charter of the United Nations and international law, including the principles referred to above. For the same reason the Russian Federation supported Commission on Human Rights resolution 1999/21.

Yugoslavia

[7 October 1999]
[Original: English]

20. The break-up of the former Yugoslavia in the early nineties was followed by a drastic five-year embargo imposed by the UN Security Council on the Federal Republic of Yugoslavia in 1992, coupled with maintenance of previous and institution of new unilateral sanctions against the Federal Republic of Yugoslavia by the United States and the European Union. This indicates that unilateral trade, economic and other measures are still in force against the Federal Republic of Yugoslavia. Sanctions, in addition to inflicting huge damage and losses on the economy and other sectors of social life in the country also affect the right of individuals to work, employment, life in a healthy environment, to education and the right of the people to development.

21. The so-called "outer-wall" of sanctions (not envisaged under the Dayton and other accords), prevents the normalisation of Yugoslavia's status in the United Nations and in international financial institutions and organizations (International Monetary Fund, World Bank, European Bank for Reconstruction and Development, etc.). As a consequence, the Federal Republic of Yugoslavia is unable to join world economic flows and cooperation and to return to the international capital market, which has an adverse effect on the entire population.

22. Over the past 10 years, the United States Government and Congress have adopted a number of decisions on unilateral measures of a coercive nature against the Federal Republic of Yugoslavia, measures that have not only served as an objective obstacle to, but have also indefinitely suspended economic cooperation with Yugoslavia. The United States has further removed the Federal Republic of Yugoslavia from its Generalized System of Preferences. The suspension of the most favoured nation treatment for Yugoslavia has meant that one of the oldest bilateral trade agreements between the United States of America and the then Kingdom of Serbia, concluded in 1882, has been terminated. All assets of the Federal Republic of Yugoslavia held in the United States have been frozen and trade operations with it banned; many arrangements on textiles, steel, commercial transport, tourism have been suspended. At the same time, the European Union has introduced trade and economic sanctions against the Federal Republic of Yugoslavia. In imposing its sanctions, the European Union has identified the situation in Kosovo and Metohija as the reason therefor. Considering that the Federal Republic of Yugoslavia has fully met all the requirements of UN Security Council resolution 1244 (1999) and that it has strictly abided by it, any further maintenance of sanctions is counterproductive, just as bringing in the new reasons for keeping them in place is unacceptable.

23. International sanctions from 1991 up to now have had a crippling effect on the Yugoslav economy. Its direct losses are estimated at about US$ 60 billion, while indirect losses stand at some US$ 150 billion, taking into account the lost social product and the lack of export earnings. Output and employment have slumped; additional costs have been incurred due to overwhelming numbers of unemployed and refugees sheltering in the Federal Republic of Yugoslavia. It still houses nearly 700,000 refugees coming from the former Yugoslav republics of Croatia and Bosnia and Herzegovina. Degradation of the living conditions has brought about ill-health of the population, increased deaths and reduced the already low birth rate. Concurrently with this, a

great many highly educated Yugoslav have left the country. Constraints on the funds allocated for education and culture have cut the level of these activities among the population. Opportunities to invest in environmental protection and promotion have declined, resulting in a bad quality and pollution of water, air and soil.

24. Externally, the sanctions have most severely affected those forms of cooperation with the European Union and the United States that are more advanced than trade and that could greatly help the initiated process of all-embracing reforms in the Federal Republic of Yugoslavia through business contracts between Yugoslav, European and US companies, by encouraging all forms of capital investment from Western countries in Yugoslavia and the transfer of know-how, restoration of banking and financial cooperation, etc.

25. The United States and its NATO allies, from 24 March to 10 June 1999, very brutally and sadistically bombed Yugoslavia day and night. Even though it was clear that the separatism and terrorism pursued by the so-called "KLA", aimed at seceding Kosovo and Metohija from Serbia and Yugoslavia was at stake, air strikes were launched allegedly to avert a humanitarian catastrophe and to protect the human rights of the Albanian ethnic community in Kosovo and Metohija. They caused many civilian casualties throughout the country. All Yugoslav infrastructure: the electrical energy system; oil refineries; bridges (more than 80 of them); transport routes; chemical plants; industrial capacity was systematically targeted. The bombs fell on television stations, hospitals, schools, kindergartens, retirement homes, shelters housing refugees from Croatia and Bosnia and Herzegovina, even a penitentiary where more than a hundred prisoners were killed. Over 600,000 people lost their jobs and 2.5 million remained without means to support their basic needs. Many cultural and historical sites and places of worship were demolished. With the new 250,000 refugee Serbs, Montenegrins, Roma and other ethnic groups who have come from Kosovo and Metohija, the total number of refugees and displaced persons in the Federal Republic of Yugoslavia has reached close to a million, the largest such number ever received by a European country.

26. The NATO aerial bombardment brought about a near environmental disaster in the Federal Republic of Yugoslavia.

27. Preliminary estimates of the losses inflicted by NATO aggression are in excess of US$ 100 billion. On the basis of its rights stemming from the United Nations Charter and other international legal norms and principles, the Federal Republic of Yugoslavia is seeking compensation for the damages caused by the aggression.

28. An undeclared war on Yugoslavia, isolation of a country, testing of new types of weapons, dropping on the civilian population of Yugoslavia of graphite and cluster bombs will be remembered as an arsenal of Western insanity against a sovereign country, a Member State of the United Nations.

29. Political and economic pressures brought to bear on Yugoslavia continue and are aimed at achieving, through targeted changes, the goals of Western power centres and at justifying the aggression against Yugoslavia. Further obstruction of oil and fuel deliveries for humanitarian purposes as winter approaches bears witness to it, although the NATO aggression was allegedly to prevent a humanitarian disaster and protect human rights. To defend reportedly the human

rights of a segment of the population, the rights of another, larger segment were flagrantly violated by dropping depleted uranium bombs on them, whereas keeping the sanctions in place directly threatens the right of the population to a normal life.

30. Unilateral imposition of economic and other sanctions as a means of political pressure on the Federal Republic of Yugoslavia is inconsistent with international law, the United Nations Charter and with international instruments. Causing the breaking off of trade, financial and other economic relations between Yugoslavia and the United States has prevented full realization of the rights set forth in the Universal Declaration of Human Rights and runs counter to the principles of free trade and development, as established under the Declaration on the Right to Development, in particular the right of individuals and peoples to development.

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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Report of the Secretary-General submitted pursuant to Commission on Human Rights resolution 1999/25

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GE.99-16347 (E)

INTRODUCTION

1. The present document is submitted in accordance with Commission on Human Rights resolution 1999/25 (para. 8), in which the Secretary-General was requested to submit a report on its implementation to the Commission at its fifty-sixth session.

2. In its resolution 1999/25, the Commission decided, inter alia, to request the Special Rapporteur on the right to education to submit a report to the Commission at its fifty-sixth session, to request the High Commissioner for Human Rights to consider the possibility of organizing, in collaboration with UNESCO and UNICEF, a workshop to identify progressive developmental benchmarks and indicators related to the right to education which may inform the work of the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child and other human rights treaty bodies and human rights mechanisms, United Nations specialized agencies, funds and programmes; to invite UNICEF and UNESCO to develop a regular dialogue with the Special Rapporteur; to request the High Commissioner to urge all States to submit their comments on the report of the Committee on Economic, Social and Cultural Rights to the Commission on a draft optional protocol for the consideration of communications in relation to the Covenant; to support efforts carried out by the High Commissioner to implement the proposed programme of action designed to enhance the ability of the Committee on Economic, Social and Cultural Rights to assist interested Governments in their reporting obligations and its capacity to process and follow up the examination of States parties' reports; to request States parties to the Covenant to make voluntary financial contributions to ensure the adequate implementation of that programme of action; and to request the Secretary-General to provide the Special Rapporteur with all the assistance necessary for the execution of the mandate.

3. Information contained in the present report is drawn from the work of the treaty bodies, especially the Committee on Economic, Social and Cultural Rights, the United Nations Development Programme, the United Nations Children's Fund, the United Nations Educational, Scientific and Cultural Organization, the World Bank Group and other organizations.

II. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

A. Proposal for a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights

4. A separate document on that subject (E/CN.4/2000/49) will be submitted to the Commission containing the comments submitted by States on the proposal for a draft optional protocol for the consideration of communications in relation to the International Covenant on Economic, Social and Cultural Rights.

B. Supporting the work of the Committee on Economic, Social and Cultural Rights and the Special Rapporteur on the right to education

5. Details of the plan of action to strengthen the implementation of the International Covenant on Economic, Social and Cultural Rights are available on the OHCHR Web site.[1] This plan of action identifies several needs. They include (a) greater support for the reporting process

in view of the backlog of reports awaiting consideration, (b) strengthened analytical support for the preparation of research papers and for more carefully tailored suggestions for advisory services and better follow-up, and (c) additional assistance to States in both the reporting and follow-up processes through the organization of workshops. The continued need for such support as well as for holding an extra session of the Committee in the years 2000 and 2001 are to be included in the OHCHR annual appeal.

6. With respect to the work of the Special Rapporteur on the right to education, the Special Rapporteur has undertaken two missions in 1998 and 1999.[2] The two countries visited on mission were Uganda and the United Kingdom of Great Britain and Northern Ireland. The reports on these missions and the Special Rapporteur's annual report to the Commission will appear as documents E/CN.4/2000/6/Add.1, E/CN.4/2000/6/Add.2 and E/CN.4/2000/6, respectively.[3]

7. Instances of cooperation between the Special Rapporteur and international organizations include the Special Rapporteur providing advice to UNESCO in relation to its future World Education Report. Furthermore, the Special Rapporteur is collaborating closely with the International Bureau of Education, an affiliate of UNESCO. In addition, prior to the Education For All Forum which is scheduled to be held in Dakar in April 2000, a United Nations Ten-Year Programme on Girls' Education is being proposed by the United Nations Development Group.[4] Should this proposed programme receive the requisite approval, it is expected that the mandate of the Special Rapporteur on the right to education would be singled out as one of the monitoring mechanisms contributing to the process of implementing the programme.

8. With respect to the support for the special procedures, the High Commissioner in her most recent report to the General Assembly has indicated a number of steps taken in order to help improve the special procedures, including the commissioning by OHCHR of a study by two experts.[5] This study recommended that OHCHR strengthen the analytical, communication, information and logistical assistance provided to the special procedures. The High Commissioner has indicated that the implementation of certain recommendations are to be undertaken without additional costs while others would require additional funding.[6]

C. Identifying progressive developmental benchmarks and indicators related to the right to education

9. In preparing the present preliminary comments on this issue, a variety of sources have been drawn upon. These include the work of international development organizations, international financial institutions, human rights bodies and meetings, as well as the outcomes of various global conferences.

10. Moreover, as a consequence of the Secretary-General's reform, which stresses the cross-cutting nature of human rights across every programme of the United Nations, many organizations are embarking upon the process of adopting a rights-based approach to their work. They are looking to the human rights community to provide clarity as to the contents of these rights and how a human rights-based approach to their work should be implemented.

11. Likewise, the international community is demonstrating its determination to increase significantly awareness and the visibility of economic, social and cultural rights and activities undertaken for their protection. The establishment by the Commission of the relatively new economic and social rights mandates has given impetus to the efforts to clarify the contents of these rights and to assess better the effective implementation of these rights through the identification of indicators and benchmarks.

12. It is not by accident that education as a human right is generating tremendous interest. The year 2000 will witness follow-up meetings with respect to three global conferences, including the follow-up to the World Conference on Education For All held in Jomtien, Thailand, in 1990 ("Jomtien + 10"). Governments have been preparing national assessment reports prior to the meeting, which will be held in Dakar in April. A global campaign for education for all has been launched by NGOs.[7] An Education Sector Strategy Paper has been produced by the World Bank[8] and the United Nations is proposing a 10-year initiative for girls' education. In addition, the non-governmental organization Oxfam has prepared a report entitled "Education Now". The focus of the report is not limited to measuring aspects of educational inequality within and between developing countries, much attention is devoted to the questions of resource allocation, the debt burden, as well as the commitments and promises made by donor countries to assist developing countries in meeting their obligation to provide universal education by means of aid and debt relief. This is in line with the goals agreed to at the World Summit for Social Development[9] and the obligations States have entered into under the human rights treaties such as the Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights.

I. Organizing meetings on the subject of benchmarks and indicators

13. The work of the Committee on Economic, Social and Cultural Rights, especially its General Comment 1 dealing with the objectives of reporting, provides the backdrop for and the context within which the important role of statistics, human rights indicators and national and more specific benchmarks can be described, especially as regards their roles in monitoring and measuring progress in the implementation of the rights laid down in the Covenant.[10]

14. Several human rights mechanisms have recently raised the question of the possibility of organizing a workshop to identify progressive developmental benchmarks and indicators related to the right to education, which may inform the work of the treaty bodies. In addition to the Commission's request on this matter, the Committee on Economic Social and Cultural Rights also flagged the need for a meeting on indicators, bench marks and the right to education in December 1998 and prepared a detailed proposal to that effect at its twentieth session in May 1999.[11]

15. The requests from two human rights bodies obviously reflect the urgency of holding such meetings as well as the need for close cooperation between the two bodies with respect to the organization of the meetings.

16. The issue as such is not new. The Commission itself has on many occasions requested action to be taken on the development of human rights indicators and benchmarks.[12] However, progress has been minimal - apart from the expert "Seminar on appropriate indicators to measure

achievements in the progressive realization of economic, social and cultural rights", held in Geneva from 25 to 29 January 1993[13] and a Round Table on Benchmarks organized by the High Commissioner for Human Rights and held in Geneva on 25 March 1998.[14] What is new is the growing recognition of the importance of identifying "realistic but ambitious goals to be achieved in a reasonable time-frame".[15]

2. International development goals, indicators and benchmarks

(a) International development goals

17. The World Conference on Education for All was one of the first global meetings to be organized in the 1990s. A mid-term review of the Conference's goals and aims in 1996 revealed that continued progress was required to achieve universal access to basic education by 2000.[16] A similar situation arises with respect to the set of goals and targets for children in the 1990s suggested at the World Summit for Children, held in New York on 29 and 30 September 1990, which included universal access to basic education and completion of primary education by at least 80 per cent of primary school-age children, and reduction of the adult illiteracy rate to at least half its 1990 level (the appropriate age group to be determined in each country), with emphasis on female literacy.[17]

18. Jomtien's promise of reaching universal primary education by the year 2015[18] and the promise of the conferences held in Cairo, Beijing and Copenhagen of eliminating gender disparity in primary and secondary education by 2005 can only be met through sustained and concerted efforts, including through collaboration in the United Nations Special Initiative for Africa and the E-9 Initiative.[19]

(b) Indicators in relation to the right to education

19. The issue of education indicators has been regularly debated within the United Nations system. Only recently, a list of indicators relating to development goals and objectives set forth in United Nations conventions and declarations at United Nations conferences was drawn up in the context of the Common Country Assessment (CCA) and the United Nations Development Assistance Framework processes (the frameworks for determining United Nations system-wide cooperation at the national level).

20. The indicators contained in the CCA Indicator Framework are built upon existing indicators accepted by the 21st Century Initiative of the Development Assistance Committee of the Organization for Economic Cooperation and Development (OECD/DAC),[20] the World Bank and members of the United Nations family, as well as the document of the Administrative Committee on Coordination on basic social services for all and minimum national social data. The CCA indicator listing is only intended to be indicative.[21] Four of them are of direct relevance to education. They are:

- Net primary enrolment or attendance ratio;
- Percentage of pupils starting grade 1 who reach grade 5;

- Adult literacy rate,

- Literacy rate of 15- to 24-year-olds

21. With respect to non-discrimination, the guidelines to the CCA indicators state that "indicators, to the extent possible, should be disaggregated by race, colour, sex, language, religion and other status". The need to classify such indicators separately for urban and rural areas, and even for peri-urban areas, and for their separate compilation and analysis for provinces, regions and states was also acknowledged. Additionally, the guidelines envisage the compilation and analysis of indicators by sex to assess progress in gender equity.

22. Much more comprehensive lists of education indicators are available in the reports of individual organizations. For example, under "education sectors", UNICEF lists six indicators in its State of the World's Children report, UNDP lists seven indicators in its Human Development Report, and the World Bank "Indicators 99" CD-Rom has a listing containing 39 indicators. Moreover, 18 core indicators were identified to monitor progress in implementing the goals and aims of the World Conference on Education for All.

23. The Commission may wish to note several other developments. In the OECD publication Education at a Glance: OECD Indicators 1998 information is available on 36 education indicators, this report contained education indicators for both OECD and other countries of the world for the first time. The World Education Indicators Programme (WEI) made this possible. WEI is coordinated by OECD in cooperation with UNESCO. Consequently, the coverage of some OECD published education indicators has been extended to almost two thirds of the world's population. (The countries participating in the WEI programme are: Argentina, Brazil, Chile, China, India, Indonesia, Jordan, Malaysia, Paraguay, Philippines, Russian Federation, Uruguay and Thailand.)[22] Also, a new UNESCO Institute for Statistics is in the process of developing and further refining education indicators.[23]

24. While indicators chosen by the development community are appropriate to track compliance with, inter alia, the international development goals in the field of education, human rights experts have expressed the wish to be party to determining "human rights-sensitive" indicators to track State compliance with the provisions of human rights treaties. In this connection the human rights community has consistently drawn attention to the recommendations contained in the report of the 1993 seminar on indicators in which it is stated that "present development indicators are not necessarily considered synonymous with human rights indicators ... and there is a need to develop new human rights indicators based on the content of each right".[24]

25. Supporting this viewpoint, the Special Rapporteur on the right to education in her first report stated that "working towards standardization of educational terminology and statistics on the basis of the right to education will constitute an important part of her work with the aim of developing strategies and indicators for the realization of the right to education".[25]

26. In the light of such realities, the "Workshop on Indicators to Monitor the Progressive Realisation of the Right to Education", organized by World University Service International

(WUS), was held in Geneva on 9 May 1999 and attended, inter alia, by members of the Committee on Economic Social and Cultural Rights. That workshop discussed the issue of the core content of the right to education, and attempted to draw up a list of core indicators for measuring progress towards the implementation of the right to education.[26]

27. The Committee on Economic, Social and Cultural Rights has prepared an outline on the objectives and purposes of a future Workshop on right to education indicators and benchmarks.[27] The Committees aim is to engage human rights and education experts in agreeing on the content of the right to education, identifying core right to education indicators, and following the progress of States parties through their setting of national benchmarks or targets in relation to the core indicators chosen.

28. The moment may be ripe for embarking upon such initiatives, as several activities presently under way would facilitate discussion on this issue. In this regard, note may be taken of the recent preparation and adoption by the Committee on Economic Social and Cultural Rights of general comments on articles 13 and 14 of the Covenant,[28] the two articles of direct relevance to the right to education.

29. Moreover, the Special Rapporteur on the right to education has indicated that "she is collecting and analysing international and domestic jurisprudence relating to the right to education with the aim of supplementing the existing quantitative data with qualitative data on the nature and scope of the right to education in the practice of States".[29] To assist in this task the Special Rapporteur has made a call for national and regional jurisprudence in relation to the right to education, there are plans to make available the results of her work on a future Web site.[30]

(c) Benchmarks

30. While the conceptualization of national and other more specific benchmarks has generated a great deal of discussion within the human rights community, the setting of progressive development benchmarks has been a natural outcome of the follow-up to international commitments made to implement the education goals of successive world conferences and global summits organized by the United Nations since 1990. As global goals were being identified, States began the process of setting their own national benchmarks for reaching these international goals.

31. There has been considerable momentum spurring on the identification of benchmarks at the national level. The international community is witnessing a period where participatory approaches to tackling poverty within countries is becoming the norm, where consultation processes to test public opinion in respect of policy choices and decisions is more prevalent and where civil society is becoming better informed - and so it has appeared that demand is also greater for practical results to be seen to emerge from such processes.[31]

32. As early as 1989, the Committee on Economic, Social and Cultural Rights, in its very first general comment, called on States to establish national or other more specific benchmarks as a means by which States can assess their performance in a given area. The Committee considered this activity as an integral element in the seven major objectives to be served by the

process of preparing and submitting a report under the International Covenant on Economic Social and Cultural Rights. The Committee has continued to emphasize the importance of national-level benchmarks in its subsequent general comments.[32]

33. By way of illustration, two examples of benchmark setting and monitoring at the national level follow, one hypothetical, the other actual. A hypothetical example of the setting and monitoring of a national benchmark:

> For developed countries, there exists a goal of 0.7 per cent of GNP for development assistance to be reached in the shortest possible time. To achieve this, a consultative process would be embarked upon for the setting of national benchmarks so as to ensure consistent yearly increases in the percentage of GNP devoted to development assistance. This is an instance where both a global goal and national benchmarks can be of value as measures of progress.[33] It would be of immeasurable benefit if provision were made in the policy on this issue for putting in place a system for triggering action should the benchmark not be reached within the time stated. Such a mechanism would hopefully allow for a review of the progress made and discuss what measures would be required to reinforce efforts, including budgetary adjustments, in order to realize the commitments entered into.

34. An example of a national benchmark actually set, but not in relation to education, is the following:

> With respect to the right of access to a basic water supply, the Department of Water Affairs in South Africa has quantified the minimum level of water supply at 25 litres per person and this must be available within 200 metres of the dwelling. Building on this foundation of the core minimum obligations, a medium-term target has been set of supplying 50-60 litres of water per person per day (this is apparently based on WHO guidelines) and a long-term target of full services and house connections for all.[34]

35. A reading of the latter example reveals that this benchmark was established following a thorough diagnosis of the situation pertaining in the country and between its regions and subregions. This approach aimed at ensuring consultation not only between government departments and different levels of Government, as well as the national human rights institution set up under the Constitution, but also country-wide with the involvement of civil society and non-governmental organizations. From information available, it is also known that an annual reporting system to the Parliament and President through the offices of the South African Human Rights Commission exists with respect to following progress on this issue. Additional guarantees for the institution of complaints and an effective remedy also exist as this right is justiciable and enforceable before a court of law in South Africa.[35]

III. CONCLUSIONS AND SUGGESTIONS

36. Certain conclusions and suggestions may be drawn from the information presented previously in relation to the realization of economic, social and cultural rights, particularly the right to education. On the basis of this information, the following paragraphs contain tentative ideas which the Commission may wish to consider.

37. The year 2000 will witness follow-up to previous international conferences. The 10-year follow-up meeting to Jomtien will take place in Dakar, April, the 5-year follow-up to the World Summit for Social Development ("Copenhagen + 5") is to be held in Geneva from 26 to 30 June, and the 5-year follow-up to the Fourth World Conference on Women ("Beijing + 5") will be held in New York from 5 to 9 June. The Commission may wish to review the follow-up to such conferences and their statements or plans of action as they refer to education targets and goals within the framework of human rights norms and the enjoyment of human rights.

38. The twenty-fifth anniversary of the entry into force of the International Covenant on Economic, Social and Cultural Rights will be commemorated on 16 December 2001. The Commission may wish to consider the activities to be undertaken before that date, including with respect to meetings on indicators and benchmarks and the question of an optional protocol on communications to the International Covenant on Economic, Social and Cultural Rights.

39. Moreover, in view of the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001, meetings between human rights experts and statisticians could take place with a view to exploring such issues as the implications of disaggregation by race of present education indicators, and future right to education indicators in monitoring provisions relating to the prevention of racism, racial discrimination, xenophobia and related intolerance. In an address to the most recent session of the Committee on Economic, Social and Cultural Rights, the High Commissioner for Human Rights stressed the importance the Committee could play in the World Conference and suggested that the Committee make education one of the themes of the Conference.[36]

40. Also with respect to the issue of identifying indicators and benchmarks, and in light of the integration of human rights in the development process, the Commission may wish to envisage possible ways of sharpening practical approaches for the realization of economic, social and cultural rights, including the right to education. One possibility would be for the identification of indicators and benchmarks to create a positive impact on treaty recommendations. Equally, the mainstreaming of human rights within the work of the United Nations would support the future integration of human rights treaty recommendations, including support for data collection, indicator dissagregation and benchmark-setting, into country programmes that are being developed with Governments. Existing frameworks for country programmes include the United Nations Development Assistance Framework (UNDAF), the Comprehensive Development Framework (CDF) of the World Bank (the country programme developed after the preparation of a Poverty Reduction Strategy Paper)[37] and OHCHR's technical assistance activities, including through support to national human rights institutions.

41. One of the remaining challenges is to ensure further synergy between national benchmark-setting and the monitoring of the rights enunciated in human rights treaties. Although steps still need to be taken with respect to determining the core content of the right to education and core right to education indicators, the same barriers do not necessarily exist for identifying benchmarks in relation to international goals already set or in relation to presently existing education indicators.

42. It is clear, however, that the tasks of determining the core content of the right to education and identifying right to education indicators remain to be tackled. The Committee on

Economic, Social and Cultural Rights is preparing to embark immediately upon such an endeavour, especially with respect to the identification of right to education indicators, particularly in light of its recent adoption of general comments relating to articles 13 and 14 of the Covenant. It is also recognized that the Special Rapporteur on the right to education is simultaneously undertaking work to map out and clarify the content of the right to education, the results of which would assist in the identification of right to education indicators.

43. The complementarity of these ongoing activities and their shared goals would seem to provide a sound basis for an ongoing discussion with statisticians of the development of indicators to reflect the various aspects of the right to education. In view of this, the Commission may wish to consider options for providing opportunities for human rights experts to participate in meetings of statisticians discussing education matters and for statisticians to follow relevant discussions on indicators, benchmarks and the content of human rights norms.

44. Given the indivisibility and interdependence of all human rights, the Commission may also wish to consider whether the methodology and approach to issue of right to education indicators and benchmarks ought to be emulated for other economic and social rights such as the right to health, the right to safe and adequate water, etc.[38] In this regard, the usefulness of calling for jurisprudence with respect to other economic, social and cultural rights and for such information to be made available on future Web sites may also be a topic for consideration. The financial implications of undertaking this and other work may also need to be considered.

Notes

[1] At **http://www.unhchr.ch/html/menu2/6/action.htm**.

[2] Financial implications were adopted with Commission on Human Rights resolution 1998/33 which established the mandate of the Special Rapporteur on the right to education for a period of three years. These financial implications provided the Special Rapporteur with two months of staff support in each of the years 1998, 1999 and 2000 and one mission per year of five working days' duration.

[3] Such documents are also available on the OHCHR Web site at: **http://www.unhchr.ch/html/menu2/7/b/medu.htm**.

[4] UNDG is one of the four Executive Committees set up by the Secretary-General as part of his reform of the United Nations.

[5] The Representative of the Secretary-General for human rights in Cambodia, and the independent expert on the situation of human rights in Somalia.

[6] See A/54/36.

[7] On 20 November 1999, the tenth anniversary of the Convention on the Rights of the Child, and in the run-up to "Jomtien + 10", various NGOs, including Education International, ActionAid, Oxfam, the Global March Against Child Labour, the South African NGO Coalition, the

Campaign for Popular Education (Bangladesh) and the Brazilian National Campaign for the Right to Education, have decided to focus attention on the promises made to provide quality education for all people, particularly for children.

[8] The World Bank's Education Sector Strategy, published in July 1999 is available on its Web site at **http://www.worldbank.org**. The contents of this strategy and its consistency with human rights obligations may need to be the focus of the Commission's future attention.

[9] See chapter 5, paras. 89-92 of the Programme of Action of the World Summit for Social Development. Available at **http://www.un.org/esa/socdev/wssdpa-5.htm#action c**

[10] For a compilation of general comments and recommendations adopted by the human rights treaty bodies as at 15 August 1997 see United Nations document HRI/GEN/1/Rev.3.

[11] See note on the twentieth session of the Committee on Economic, Social and Cultural Rights (26 April-21 May 1999) available at **http://www.unhchr.ch/html/menu2/6/cescrnote.htm#note20th**

[12] The Commission on Human Rights has been calling for the identification of benchmarks for over 10 years. The relevant resolutions of the Commission are: 1988/23, para. 5, 1989/13, para. 6, 1990/17, para. 6, 1991/18, para. 6, 1992/10, para. 7, 1993/14, para. 7, 1994/20, para. 11; 1995/15, para. 11, 1996/11, para. 10, 1997/17, para. 4 (c), and 1998/33, para. 4 (d). Furthermore, the Commission on Human Rights in its resolution 1994/20, para. 7, recognized "the importance of using indicators as a means of measuring or assessing progress in the realization of human rights, as referred to in the Vienna Declaration and Programme of Action"; and in its para. 9, recommended "that, as a follow-up to the seminar on indicators, the Centre for Human Rights convene expert seminars for chairpersons of the human rights treaty monitoring bodies and representatives of specialized agencies and non-governmental organizations, as well as representatives of States, focused on specific economic, social and cultural rights, with a view to clarifying the particular content of these rights".

[13] The report on the expert Seminar appeared as document A/CONF.157/PC/73 of 20 April 1993.

[14] The report of the round-table discussion "Benchmarks for the Realization of Economic, Social and Cultural Rights" will appear in future on the OHCHR Web site. At present, the report is held in the files of the secretariat (contact Anne Gallagher, OHCHR).

[15] Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council at its substantive session of 1999 (E/1999/96), para. 58.

[16] For further information, see the final report "Education For All: Achieving the Goal" of the Mid-decade Meeting of the International Consultative Forum on Education for All (Amman, 16-19 June 1996), available at **http://www.unesco.org/education/efa/08middec.htm**.

[17] See para. 5 of the Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children in the 1990s. Information at **http://www.unicef.org/wsc**

[18] The goal of achieving universal primary education in all countries by 2015 was also adopted at the Beijing and Copenhagen conferences.

[19] See supra note 8, p. 22.

[20] An OECD, United Nations, World Bank conference identified 6 social goals and 16 complementary indicators to be monitored by the development community as part of a new international development strategy. See information at **http://www.worldbank.org/data/dev/devgoals.html**. Two of the goals recommended by United Nations-sponsored global conferences - achieving universal primary education in all countries by 2015 and achieving gender equality of enrolments in primary and secondary education by 2005 - were included in the core set of international development goals proposed in "Shaping the 21st" by the OECD/DAC, and have since been adopted by many international organizations including the World Bank and the donor community. The OECD/DAC indicator additional to those of CCA is the ratio of girls to boys in primary and secondary education.

[21] The guidelines also state that United Nations Country Teams implementing CCA and UNDAF will need to expand the list with country-specific qualitative and quantitative data.

[22] Data for Israel are also presented within the WEI programme.

[23] The Institute has indicated its willingness to receive comments and suggestions on the relevance, conceptual appropriateness and other aspects of its chosen key education indicators. For further information see: **http://unescostat.unesco.org/Indicator/Indframe.htm**.

[24] See Report of the Seminar on appropriate indicators to measure achievements in the progressive realization of economic, social and cultural rights (A/CONF.157/PC/73), paras. 171 and 172.

[25] E/CN.4/1999/49, para. 12.

[26] A copy of the report of the workshop may be obtained from WUS.

[27] The following objectives, among others, were drawn up on the basis of the Committee's proposal on the workshop: to identify and agree on key indicators of the right to education and to invite all treaty bodies to integrate these indicators into their reporting guidelines or other methods of work; to encourage treaty bodies, States, international organizations and non-governmental organizations to use these key indicators when considering the right to education; and to foster greater understanding and practical cooperation among and between the treaty bodies, specialized agencies and other United Nations bodies. To achieve these objectives the Committee proposes that the workshop address various issues, including the following: to clarify the relationship between indicators and benchmarks; to identify and agree on the criteria to be used when selecting key right to education indicators; to discuss how agreed key indicators

would be utilized by the treaty bodies, specialized agencies and other United Nations organizations, to consider the common ground and differences between the texts of human rights treaties as they relate to the right to education; to discuss the question of data availability in respect of indicators which would reflect the human rights dimensions of the right to education; and, having identified and agreed on key right to education indicators, to consider the utility of such workshops on other economic, social and cultural rights.

[28] Documents E/C.12/1999/10 and E/C.12/1999/4, respectively. In a press release of 3 December 1999, it is indicated that the Committee on Economic, Social and Cultural Rights adopted a general comment on the right to education in which it "noted that education was both a human right in itself and an indispensable means of realizing other human rights". For further details, see press releases on OHCHR Web site at **http://www.unhchr.ch**

[29] E/CN.4/1999/49, para. 27.

[30] Information on court cases, if possible with judgements and, where available, their translation into one of the six United Nations languages should be forwarded to: Sara Gustafsson, Research Assistant to the Special Rapporteur on the right to education, Raoul Wallenberg Institute, PO Box 1155, SE-221 05 Lund, Sweden, fax: 0046 46 222 12 22 tel: 0046 46 222 12 07 and e-mail: sara.gustafsson@rwi.lu.se.

[31] In an IMF-World Bank communiqué of the sixtieth meeting of the international financial institutions' Development Committee, held on 27 September 1999, it was stated that Ministers "welcomed the proposed Poverty Reduction Strategy Papers to be prepared by national authorities" and "emphasized that the strategies set out in the new Poverty Papers should be country-driven, be developed transparently with broad participation of elected institutions, stakeholders, key donors and regional development banks and have a clear link with the agreed international development goals". In addition, the Ministers stressed in particular the "need to develop macroeconomic, structural and social policies that will contribute to long-term poverty reduction and the need to develop measurable intermediate and outcome indicators to monitor progress".

[32] General Comment No. 10, para. 3 (d), No. 12 and No.13, para. 52.

[33] At the World Summit for Social Development, the important role of international cooperation in supporting developing countries in reaching the targets set was recognized and as such the Summit's Plan of Action included promises on the part of developed countries: (a) to strive to attain the agreed-upon target of 0.7 per cent of gross national product for official development assistance and 0.15 per cent to the least developed countries, as soon as possible, and (b) to agree on a mutual commitment between interested developed and developing country partners to allocate, on average, 20 per cent of official development assistance (ODA) and 20 per cent of the national budget, respectively, to basic social programmes.

[34] Sandy Liebenberg, "Practical Steps Towards the Promotion of Benchmarks: National Action Plans". Paper prepared for the round-table discussion "Benchmarks for the Realization of Economic, Social and Cultural Rights". See supra note 14.

[35] Ibid.

[36] See press release, HR/ESC/99/35 of 19 November 1999, available at the OHCHR Web site at **http://www.unhchr.ch**

[37] See the Executive Summary in a recent Oxfam publication entitled "The IMF: wrong diagnosis, wrong medicine". On its page 3, the IMF is being requested to follow the approach taken by the World Bank by redesigning its programmes and placing human development considerations at the centre of its operations. Further information is available at Web site **http://www.oxfam.org/educationnow**

[38] See supra note 27 relating to the suggestion of the Committee on Economic, Social and Cultural Rights on dealing with the question of the utility of organizing such workshops on other economic, social and cultural rights.